IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 10.10.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice S.TAMILVANAN

Habeas Corpus Petition No.985 of 2006

Anuradha
W/o. Kaayarohanam ... Petitioner

Vs.

The Inspector of Police,
O/o the Commissioner of Police,
Central Crime Branch,
Egmore, Chennai-8. .. Respondent

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondent to produce the detenu Kaaya Rohanam, son of Ramadoss before this Court and set him at liberty.

For Petitioner : Mr.R.Sankarasubbu
For Respondent : Mr.M.Babu Muthu Meeran,
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, by name Anuradha, has filed this petition seeking direction to the respondent for production of the detenu-Kaaya Rohanam, before this Court and set him at liberty.

2. It is seen from the information furnished in the affidavit that the petitioner's husband was taken into custody on 14.06.2006 for the alleged offence under Sections 420 and 406 IPC and remanded to judicial custody. She moved bail application for her husband before this Court in Crl.O.P.No.17238 of 2006 and bail was granted imposing certain conditions. It is further stated that since her husband is indigent and poor, he has not complied with the conditions imposed and continued to remain in custody. On 14.08.2006, again she moved bail under Section 167(2) Cr.P.C before the Additional Chief Metropolitan Magistrate,

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Egmore, Chennai-8, in Crl.M.P.No.1155 of 2006. By order dated 04.09.2006, the learned Magistrate has granted bail imposing the following conditions.

(i) the petitioner shall pay an amount of Rs.10,00,000/- (Rupees ten lakhs only) by way of demand draft in favour of the defacto complainant within a period of two weeks from the date of receipt of a copy of this order and to produce the receipt before XIII Metropolitan Magistrate, Egmore, Chennai.

(ii) The petitioner shall file an affidavit of undertaking to pay the balance amount of Rs.15,00,000/- (Rupees fifteen lakhs only) in three instalments commencing from 01.08.2006 and the third instalment on 15.03.2006.

3. It is further stated that the learned Magistrate misconstrued Section 167(2) Cr.P.C. and the order of remand beyond 60 days is unjust, illegal and violation of Article 21 of the Constitution of India, hence the petitioner has filed the present petition.

4. Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor for the respondent.

5. We have perused the order of the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai dated 04.09.2006 made in Crl.M.P.No.1155 of 2006. The learned Additional Public Prosecutor has brought to our notice that as against the said order of the Additional Chief Metropolitan Magistrage, Egmore, Chennai, the petitioner/accused has preferred revision in Crl.R.C.No.1137 of 2006. In such circumstances, we are of the view that the petitioner or her husband/accused is free to raise all the points before the concerned Judge hearing the criminal revision.

6. With the above observation, this petition is dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1.The Addl. Chief Metropolitan Magistrate, Egmore, Chennai.

2. The XIII Metropolitan Magistrate, Egmore, Chennai.

3. Do through the Chief Metropolitan Magistrate, Egmore, Chennai.

4. The Inspector of Police, O/o the Commissioner of Police, Central Crime Branch, Egmore, Chennai-8.

5. The Public Prosecutor, High Court, Madras.

+ 1 CC To Mr. R.Sankarasubbu, Advocate SR NO.47177

HCP. No.985 of 2006
10.10.2006

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